

**United Calling Network, Inc.**  
**United Calling Card, Inc.**  
**United Cellular Services** A Licensed Public Utility U-4127-C

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SOLUTIONS FOR THE FUTURE

Thursday, January 8, 1998

William Kennard, Chairman  
Federal Communications Commission  
1919 M Street, N.W.  
Room 814  
Washington, D.C. 20554  
Fax No. (202) 418-2801

Re: Reply Comment to Opposition to F.C.C. C-Block Restructuring  
Order Reconsideration; WT Docket 97-82

Dear Chairman Kennard:

United Calling Network, Inc. ("UCNI") is a "minority" owned California licensed Public Utility and nationally licensed telephone company. UCNI is a switched reseller of NextWave Telecom Inc ("NextWave") Personal Communication Services ("PCS") and we have been involved in the restructuring efforts since its inception.

The opponents of reconsideration have made several arguments for the FCC to deny any further relief to financially-strapped C-block licensees. **Firstly**, opponents claim that the "integrity" of the auction process must be preserved, to do otherwise, would be to open a Pandora's box of future fraudulent auction bids. It has always been UCNI's position that **had** the C-block spectrum auction been "fair, reasonable and without problems" as the previous FCC and proponents have claimed, why did the previous Chairman and Commissioners set precedence and grant relief to C-block licensees? If there were no problems, why would the previous Commission open themselves up to scrutiny and criticism by granting the C-block licensees a four-option menu of choices? The only logical explanation for their action is that they recognized and tried to resolve the problems facing the C-block.

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In reviewing the separate opinions published by Commissioners Rachael Chong and Susan Ness, both Commissioners did not want to grant any relief to the C-block licensees and did not acknowledge any wrongdoing by the Commission, yet both voted for a plan to grant relief, albeit minimal and non-economical to the C-block licensees. The "hard line" positions of the Commissioners, except for Chairman Hundt (who was severely criticized by Commissioner Chong) was **inconsistent** with the Commission's **Second Report and Order**. If the integrity of the auctions was the main consideration, then there should not have been any suspension of the interest payments nor should there have been any alternatives to forfeiture of the licenses for non-payment.

**Secondly**, opponents contend that the C-block is healthy and functioning. These opponents to reconsideration proudly state that competition is "alive and well" in the PCS markets. Unfortunately, competition is mainly between the A-block and B-block licensees in each marketplace. Although there are areas in which C-block licensees have begun to provide service, backed by incumbent capital, none of these C-block winners are in any of the major cities or trading areas of the United States. There is no C-block service in any of the top ten populous cities. How can the C-block be healthy when the second and third top license winners, General Wireless and Pocket Communications have filed for bankruptcy protection?

To further dispel the notion that PCS competition is alive, the D, E and F-block licensees have not flooded the PCS market. With all of the attention that the C-block auction has drawn, there has been little, if any, focus on the progress of D, E and F-block licensees. If there was "true" competition among PCS licensees as we would be led to believe, then in each market the public would have 5 to 6 choices for PCS service. Such is not the case in any market in the United States. D, E and F-block licensees have faced the same financial realities of the C-block winners, even though, on the average, they paid much less for their licenses. The capital markets are no longer receptive to auction licensees and there is no money available to pay for either the licenses or the network build-out.

**Thirdly**, reconsideration opponents claim that there are numerous reseller opportunities without the small business, entrepreneurs of the C-block. Since UCNI is a switched reseller of PCS and not a C-block licensee, we have a different perspective of this situation. Although UCNI is not directly tied to any C-block licenses, we are acutely aware that without C-block licensees, there are no resale opportunities in PCS, despite what others, such as AirGate, would like the FCC to believe.

In its most recent opposition to the petition for reconsideration, AirGate (page 4) advises the FCC that, "PCS carriers are obligated under the Commission's rules to provide reseller with the opportunity to resell their services." Yet, to our knowledge, none of the existing PCS providers do, nor does AirGate state they have a program in place. UCNI has investigated and found that in Los Angeles, there are currently two (2) providers of PCS service the A-block and B-block licensees, Pacific Bell Mobile Services and Sprint. Neither company has opportunities for resellers to resell hardware or airtime. We have inquired into reseller opportunities and were advised by both Pacific Bell and Sprint that there were no such opportunities. These companies are only offering resale of

Good Guys, etc.) and the activation of service is handled by a telephone call to the carrier. There is no longer any "one stop shopping" as in cellular, where the customer could buy the hardware and have the service activated in one store.

UCNI is unaware of any PCS carrier, except for certain C-block licensees, which has established or plans to institute a traditional agency/dealership reseller program or a "courier-to-courier" resale arrangement. Therefore, UCNI's only hope of being a reseller in PCS is to insure that the C-block licensees are successful in their efforts.

**Lastly**, opponents believe that C-block licensees cannot compete with existing A and B-block licensees because of the high cost of obtaining the license. These opponents have already written-off these C-block licensees and their resellers. This analysis fails to consider the ability to recoup one's per POP investment through customer base and volume of minutes of use. Obviously, if all PCS providers have equal market share the provider with the **lowest** price per POP and cost of service will make the most profit.

The opponents of reconsideration have made it clear that they do not want any **other** competition in the PCS marketplace. The C-block was intended for small business entrepreneurs to enter into PCS and compete on a level playing field. Somehow, the spectrum auction for the group with supposedly the least amount of money (C-block) resulted in the most hotly contested and overbid auction of any block. Two of the three highest C-block winners have filed for bankruptcy. The remaining licensees are requesting reconsideration for some much needed financial relief.

These C-block licensees deserve an opportunity to compete. For the FCC to turn its back on these C-block licensees now would be to ignore the mandate of Congress in creating the C-block. If the requested relief is granted and the C-block licensee still cannot provide PCS service to the general public, there is nothing more they can complain about. The FCC and the Federal Government cannot provide any other relief to the C-block licensees, other than to grant them some relief regarding the payment of their licenses.

The reality that these licensees and the FCC faces is that if some relief is not given now, a major portion of licenses will be tied up in bankruptcy or litigation for years. And the returned licenses will not garner nearly the amount of money that was originally bid for them. We at UCNI realize that this is not an easy decision and that the C-block licensees are fighting an uphill battle.

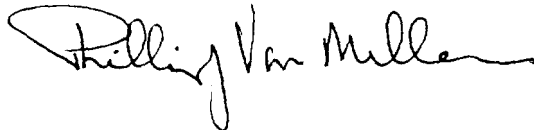
As a final point, there is one thought that must be considered, not only have these C-block licensees committed capital for the purchase of their licenses but, to date, these licensees and their vendors have expended millions, maybe billions, of dollars in equipment, infrastructure and operating expenses. UCNI has expended a great deal of money in anticipation of reselling PCS service in the near future. If licenses are forfeited, placed into bankruptcy or otherwise tied up in litigation, UCNI and many other resellers of C-block licensees will face the prospect of equipment and infrastructure with no PCS provider.

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*There is a great deal of "stranded debt" involved with the C-block licensees. It is understandable that the FCC wants to adhere to the rules of the auction and to discourage fraudulent or speculative bidding but it is completely different when the FCC is not only punishing the licensee. If relief is not granted to the C-block licensees, the FCC will be abandoning and financially destroying innocent companies (i.e., vendors, resellers, etc.), such as UCNI, who relied on the integrity of the FCC auction and licensing process.*

*I am available to discuss the contents of this letter at your convenience. If you have any comments or questions, please do not hesitate to call me.*

*Very truly yours,*



Phillip Van Miller  
Chairman and Chief Executive Officer  
United Calling Network, Inc.

PVM/sa

cc - F.C.C. Commissioner Harold Furchtgott-Roth  
F.C.C. Commissioner Michael Powell  
F.C.C. Commissioner Gloria Tristani  
F.C.C. Commissioner Susan Ness  
F.C.C. Secretary Magalie Roman Salas